



April 19, 1999

Lieutenant Bill Kral
Amarillo Police Department
200 S E 3rd
Amarillo Texas 79101-1515[]

OR99-1038

Dear Lieutenant Kral:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 123442.

The Amarillo Police Department (the "city") received a request for incident report number 98-112738. You claim that the requested information is excepted from disclosure under section 552.108(a)(2) of the Government Code. You submitted the responsive information. We have considered the exception you claim and reviewed the submitted information.

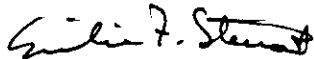
Although you have not raised section 552.101 of the Government Code as an applicable exception, we must consider whether the information is excepted from required public disclosure pursuant to section 552.101. The Office of the Attorney General will raise section 552.101 on behalf of a governmental body when necessary to protect third-party interests. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987). For information to be protected from public disclosure by the common-law right of privacy under section 552.101,¹ the information must meet the criteria set out in *Industrial Foundation of the South v. Texas Industrial Accident Board*, 540 S.W.2d 668, 683-85 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). In *Industrial Foundation*, the Texas Supreme Court stated that information is excepted from disclosure if (1) the information contains highly intimate or embarrassing facts the release of which would be highly objectionable to a reasonable person, and (2) the information is not of legitimate concern to the public. *Id.* at 685. You must redact the marked portions of the requested information under the common-law right of privacy.

¹Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. Section 552.101 also encompasses common-law privacy and excepts from disclosure private facts about an individual.

You assert that the requested information pertains to a case that concluded in a result other than conviction or deferred adjudication. We agree that section 552.108(a)(2) is applicable. However, section 552.108 does not except from required public disclosure "basic information about an arrested person, an arrest, or a crime." Gov't Code § 552.108(c). We believe that "basic information" refers to the information held to be public in *Houston Chronicle Publishing Company v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Thus, you must release the remaining unmarked information.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Emilie F. Stewart
Assistant Attorney General
Open Records Division

EFS\nc

Ref: ID# 123442

Encl: Submitted documents

cc: Ms. Carol Peregram
6101 I-40 West
Amarillo, Texas
(w/o enclosures)//